

March 8, 1937

Hon. Eli C. Shelton  
House of Representatives  
State House  
Phoenix, Arizona

Dear Mr. Shelton:

You asked if the Bill authorizing the levy of a lieu tax on automobiles on the basis of \$3.00 per \$100.00 outside of incorporated cities and town, and \$4.00 per \$100.00 within such cities and towns, one to be apportioned to the city and in lieu of all other taxes was constitutional.

An examination of the available authorities shows that the Constitution of the State of Arizona vests all power and control of taxation in the legislature. Under this power cities have only such power as may be delegated to them by the Legislature. This power may be entirely taken away or limited in such manner as the Legislature sees fit. The Legislature also has the authority and power to classify property for the purpose of taxation and fix different rates on different classes.

In the case of Simmons vs. Erickson, 223 N.W. 342, the Court said:

" It is a well settled rule that the Legislature may make any classification of property for taxation, based on some grounds of different, fairly and substantially related to objects of legislation and operating equally on all persons within the same classification."

The Supreme Court of the United States in the case of Providence Bank vs. Billings, 29 U. S. 4, says:

" The constitution does not mean that the rate shall be uniform for all purposes throughout the State, but requires a uniform and equal rate throughout the

March 8, 1937

territory in which the particular tax is levied; if for State purposes, then throughout the State; if for county purposes, throughout the entire county; and if for local purposes throughout the township, town or city."

The same holding is found in the case of Daily vs. Morgan, 1 L.R.A. 757. The exercise of this power has always been sustained by the Supreme Court of the United States. United States vs. Memphis, 97 U. S. 292.

It is therefore the opinion of this office that the legislation is constitutional.

Very truly yours,

JOE CONWAY  
Attorney General

E. G. FRAZIER  
Special Assistant  
Attorney General